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APR 16 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

April 16, 1997

BY COURIER

William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

Re: MM Docket No. 94-71
File No. BPED-920305ME

Dear Mr. Caton:


Enclosed please find an original and seven copies of a Corrected Motion to Grant Pending Application. The original motion filed on April 15, 1997 inadvertently omitted the Motion to Dismiss Informal Objection and Request to Approve Settlement Agreement.

I would appreciate it if you could file the original and six copies and date-stamp the seventh copy for return to me.

Sincerely,

Dickstein Shapiro Morin & Oshinsky, LLP

Attorneys for Santa Monica Community
College District

By: 
Lewis J. Paper

cc: Honorable Joseph Stirmer
James P. Riley, Esq.

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CORRECTED

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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APR 16 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In re Application of)

SANTA MONICA COMMUNITY COLLEGE)
DISTRICT)

For a Construction Permit for a)
New Noncommercial FM Station on)
Channel 201B at Mojave,)
California)
_____)

MM Docket No. 94-71

File No. BPED-920305ME

To: The Honorable Joseph Stirmer

MOTION TO GRANT PENDING APPLICATION

Santa Monica Community College District ("SMCCD") hereby
moves for an order granting its pending application forthwith.

In support of this motion, the following is stated:

1. By Memorandum Opinion and Order released on
February 1, 1996, the Commission directed the Mass Media Bureau
("Bureau") to process the pending application of California State
University, Long Beach Foundation (CSU) to modify its facilities
for KLON(FM) in Long Beach, California, File No. BPED-940713IA.

Santa Monica Community College District, 11 FCC Rcd 1123 (1996).

The Commission ordered the Bureau to consolidate CSU's

application with SMCCD's pending application if the applications were determined to be mutually exclusive.

2. SMCCD and CSU have entered into a Settlement Agreement which is designed to eliminate any conflict between their respective applications and, subject to Commission approval, to provide for the simultaneous grant of each of their applications. To that end, CSU has filed an application with the Commission to remove any conflict with SMCCD's application. A copy of the CSU application has been sent to the Presiding Judge under separate cover. SMCCD and CSU are also filing this same day (a) a motion to dismiss SMCCD's Informal Objection to CSU's pending application and (b) a request for the Bureau to approve the parties' Settlement Agreement. A copy of that pleading is annexed hereto.

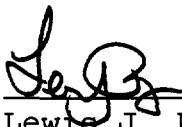
3. CSU and SMCCD have discussed this matter with the Bureau staff, and the staff is prepared to coordinate its actions with any actions taken by the Presiding Judge to implement the condition of the Settlement Agreement that CSU's and SMCCD's respective applications be granted simultaneously.

WHEREFORE, in view of the foregoing, it is respectfully
requested that SMCCD's application be granted.

Respectfully submitted,

DICKSTEIN SHAPIRO MORIN
& OSHINSKY LLP
2101 L Street, N.W.
Washington, D.C. 20037-1526
(202) 785-9700

Attorneys for SANTA MONICA
COMMUNITY COLLEGE DISTRICT

By: 
Lewis J. Paper

STAMP AND RETURN

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED
APR 15 '97
FEDERAL COMMUNICATIONS
COMMISSION
OFFICE OF SECRETARY

In re Application of)

California State University,)
Long Beach Foundation)
Application for Construction)
Permit for Noncommercial)
Educational Broadcast)
Station KLON,)
Long Beach, California)

FCC File No.
BPED-940713IZ

To: Chief, Mass Media Bureau
:

**MOTION TO DISMISS INFORMAL OBJECTION AND REQUEST
TO APPROVE SETTLEMENT AGREEMENT**

Santa Monica Community College District ("SMCCD") and
California State University, Long Beach Foundation ("CSU") hereby
(1) move to dismiss SMCCD's Informal Objection against the
above-referenced application (the "Application") and (2) request
approval of the attached Settlement Agreement between SMCCD and
CSU conditioned on (a) the Commission's acceptance of an
amendment to the Application which is being filed on April 14,
1997 to remove any conflict with the separate application filed
by SMCCD (the "SMCCD Application") to build a new FM radio
station on Channel 201B in Mojave, California, File No.
BPED-920305ME, (b) the grant of CSU's amended Application, and

(c) the simultaneous grant of the SMCCD Application. In support of this motion, the following is stated:

1. On August 22, 1994, SMCCD filed an Informal Objection to the Application to modify the transmission facilities of KLON(FM) in Long Beach, California. SMCCD's Informal Objection was premised on the pending SMCCD application to construct a new noncommercial FM station on Channel 201B in Mojave, California.

2. CSU and SMCCD have executed a Settlement Agreement to resolve their differences and to provide, subject to Commission approval, for the simultaneous grant of each of their respective applications. A copy of the Settlement Agreement is annexed hereto. That Settlement Agreement reflects the parties' intention that the dismissal of SMCCD's Informal Objection be conditioned on the simultaneous grant of CSU's pending Application, as amended, and SMCCD's Application.

3. In accordance with Section 73.3588 of the Commission's rules, the parties will shortly file declarations to certify that neither party has received or will receive any money or other consideration in conjunction with the dismissal of SMCCD's Informal Objection.


WHEREFORE, in view of the foregoing, it is respectfully requested that SMCCD's Informal Objection be dismissed upon the simultaneous grant of CSU's amended Application and SMCCD's Application.

Respectfully submitted,

DICKSTEIN SHAPIRO MORIN
& OSHINSKY LLP
2101 L Street, N.W.
Washington, D.C. 20037-1526
(202) 785-9700

Attorneys for Santa Monica
Community College District

By:


Lewis J. Paper

FLETCHER HEALD & HILDRETH,
P.L.C.
1300 North 17th Street
11th Floor
Rosslyn, VA 22209
(703) 812-0450

Attorneys for California
State University,
Long Beach Foundation

By:


James P. Riley, Esq.

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is made this 14th day of April 1997 by and between Santa Monica Community College District ("SMCCD") and California State University, Long Beach Foundation ("CSU").

WHEREAS, SMCCD filed an application with the Federal Communications Commission ("FCC") on March 5, 1992 for a construction permit to build a new noncommercial FM radio station on Channel 201B in Mojave, California, File No. BPED-920305ME; and

WHEREAS, Living Way Ministries ("Living Way") subsequently filed an application which was mutually exclusive with SMCCD's application; and

WHEREAS, on June 27, 1994, the FCC Mass Media Bureau (the "Bureau") issued a Hearing Designation Order which consolidated SMCCD's application and Living Way's application into MM Docket 94-71 and proposed to compare SMCCD's and Living Way's respective applications to determine which application, if any, should be granted; and

WHEREAS, SMCCD and Living Way entered into a Settlement Agreement on or about July 1, 1994 which, inter alia, contemplated the amendment of SMCCD's application to specify Channel 204B instead of Channel 201B; and

WHEREAS, by Memorandum Opinion and Order, the Presiding Judge in MM Docket 94-71 granted (1) SMCCD's Petition for Leave to Amend its application to change its proposed channel of operation and (2) the parties' corresponding Joint Petition for Approval of Settlement Agreement but did not grant SMCCD's amended application; Santa Monica Community College District, FCC 94M-453 (ALJ July 25, 1994); and

WHEREAS, CSU is the licensee of noncommercial radio station KLON(FM), which operates on Channel 201 at Long Beach, California; and

WHEREAS, CSU filed an application with the FCC on July 13, 1994 to modify the transmission facilities of KLON(FM), File No. BPED-940713IZ; and

WHEREAS, SMCCD filed an Informal Objection against CSU's application because, if granted by the FCC, KLON(FM)'s modified operation would conflict with the proposed operation of SMCCD's amended application; and

WHEREAS, in response to a motion filed by SMCCD and other pleadings, the FCC issued a Memorandum Opinion and Order on February 1, 1996 directing the Bureau to withhold a grant of SMCCD's amended application pending the Bureau's processing of CSU's application for KLON(FM) to determine if the SMCCD and CSU applications are mutually exclusive and, if so, to designate CSU's application for hearing with SMCCD's application, Santa Monica Community College District, 11 FCC Rcd 1123 (1996); and

WHEREAS, the parties are desirous of entering into an agreement to resolve any and all differences to facilitate a grant of each of their respective applications by the FCC simultaneously; and

WHEREAS, to that end CSU is prepared to and will, simultaneously with the execution of this Agreement, file an application with the FCC to modify its pending application for KLON(FM) to remove any conflict between that application and SMCCD's application; and

WHEREAS, as part of any settlement, SMCCD is prepared to withdraw its Informal Objection against CSU's application as amended;

NOW, THEREFORE, in view of the foregoing and the mutual promises and covenants contained herein, the parties hereby agree as follows:

First, simultaneous with the execution of this Agreement, CSU will file with the FCC an amendment to its modification application for KLON(FM) to eliminate any conflict between that application and SMCCD's amended application.

Second, simultaneously with the execution of this Agreement and the filing of the aforementioned amendment by CSU, SMCCD will file a motion with the FCC to

request the dismissal of its Informal Objection against CSU's modification application, as amended, conditioned only on the simultaneous grant of SMCCD's amended application.

Third, SMCCD and CSU will, individually and jointly, file with the FCC (including the Presiding Judge in MM Docket No. 94-71) any and all appropriate motions and other pleadings necessary to implement the intent of this Agreement, to obtain the simultaneous grant of each of their respective amended applications, and to terminate all pending proceedings concerning their respective amended applications. Any such motion or other pleading will make it explicit that the withdrawal of any objection by SMCCD and CSU to the other's amended application is conditioned on the simultaneous grant of both of their amended applications. SMCCD and CSU will cooperate with each other as well as the Presiding Judge in MM Docket No. 94-71 and the Bureau to ensure that any grant of their respective amended applications is simultaneous.

Fourth, after the FCC grant of their respective amended applications, neither SMCCD nor CSU will file any document with the FCC or take any other action which would or could result in the revocation or adverse modification of any permit or license issued by the FCC upon or after a grant of their respective amended applications.

Fifth, no party shall be entitled under this Agreement to payment of any money or other consideration by the other party. Each party shall be responsible for its own

expenses, including legal and other professional fees, in the prosecution of its respective amended application, the preparation of this Agreement, and the filing of any documents with the FCC.

Sixth, this Agreement contains the entire understanding of the parties with respect to the disposition of their respective applications and supersedes any and all prior or contemporaneous agreements, understandings, and contracts. This Agreement may not be amended except by a writing executed by both parties. This Agreement shall be governed by the laws of the District of Columbia without regard to conflict of law provisions.

Seventh, this Agreement may be executed in counterparts, and all counterparts shall collectively be deemed to be one and the same document.

Eighth, any and all notices required or permitted by and between the parties under this Agreement shall be in writing and shall be delivered by hand, sent by certified mail-return receipt requested, postage prepaid, or sent by overnight courier, charges prepaid, to the parties at the following addresses (or at such other address as any party may designate in writing to each other):

If to SMCCD: Thomas J. Donner, Chief Business Officer
Santa Monica Community College ...
District
KCRW-FM
1900 Pico Boulevard
Santa Monica, CA 90405

Copy to: Lewis J. Paper, Esq.
Dickstein Shapiro Morin & Oshinsky LLP
2101 L Street, NW
Washington, DC 20037

If to CSU: Ms. Judy Jankowski
:
General Manager
:
Station KLON-FM
:
1288 Bellflower Boulevard
:
Long Beach, CA 90815

Copy to: James P. Riley, Esq.
Fletcher Heald & Hildreth, P.L.C.
1300 North 17th Street
11th Floor
Rosslyn, VA 22209

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the
date first set forth above.

SANTA MONICA COMMUNITY
COLLEGE DISTRICT

By: Cheryl Miller
Name: Cheryl Miller
Title: Business Services Administrator

CALIFORNIA STATE UNIVERSITY,
LONG BEACH FOUNDATION


By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the parties have executed this Agreement as of the
date first set forth above.

SANTA MONICA COMMUNITY
COLLEGE DISTRICT

By: _____
Name: _____
Title: _____

CALIFORNIA STATE UNIVERSITY,
LONG BEACH FOUNDATION


By:  _____
Name: Dr. Stephen Feldman
Title: VP, University Relations
& Development

Certificate of Service

I hereby certify that on April 16, 1997, a copy of the foregoing MOTION TO GRANT PENDING APPLICATION was sent by first class United States mail to:

James Shook, Esq.
Hearing Branch
Mass Media Bureau
Federal Communications Commission
Room 7002
2025 M Street, N.W.
Washington, D.C. 20554

James P. Riley, Esq.
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Leeda Atkinson